

L 2826

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 9618 Permit 5388 License 2826

**ORDER AMENDING THE LICENSE BY ADDING A MEASURING
DEVICE TERM, A MAXIMUM ANNUAL AMOUNT, AND CONTINUING
AUTHORITY, WATER QUALITY OBJECTIVE AND ENDANGERED OR
THREATENED SPECIES TERMS**

WHEREAS:

1. License 2826 was issued to Byron G. Gowan on March 15, 1946, pursuant to Application 9618 and was recorded with the County Recorder of Mendocino County on April 2, 1946.
2. License 2826 was subsequently assigned to Cecil Gowan on September 16, 1960; to Cecil Gowan and James Gowan on March 24, 1967; and to James C. Gowan and Josephine N. Gowan on February 7, 1985.
3. The Division of Water Rights (Division) conducted an inspection of the project covered by License 2826 on March 17, 1999. This inspection found that no annual maximum direct diversion amount was included in the license. The inspection also found that the licensee had no satisfactory measuring devices or records of diversion to ensure compliance with existing terms and conditions of the license.
4. The State Water Resources Control Board (SWRCB) has determined that in order to ensure compliance with License 2826, additional terms and conditions need to be added to License 2826.
5. The SWRCB will also add its standard continuing authority term, water quality objective term and a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. An annual amount is added to this license as follows:

The maximum amount of water diverted under this license shall not exceed 50 acre-feet per year.

2. A measuring device term is added as follows:

Licensee shall install and maintain an in-line flow meter to measure all water diverted under this license. The flow meter shall be capable of measuring the instantaneous diversion rate and the cumulative amount diverted. Licensee shall maintain a record of end-of-the-month meter readings from April 1 to November 1 of each year. Licensee shall submit these monthly readings with the triennial report of licensee or whenever requested by the Division of Water Rights.

3. A water quality objectives term is added to this license as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the California Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

4. The continuing authority condition is added to this license as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water

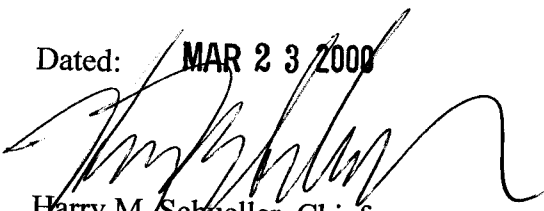
conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

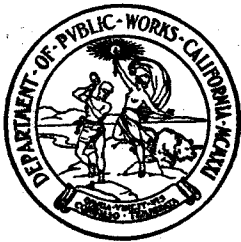
The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

5. An endangered species term is added to this license as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Dated: **MAR 23 2000**


Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

LICENSE 2826

PERMIT 5388

APPLICATION 9618

THIS IS TO CERTIFY, That **Byron G. Gowan, Philo, California**
Notice of Assignment (Over)

has made proof as of **May 11, 1944**
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the waters of
Navarro River in Mendocino County
tributary to **Pacific Ocean**

for the purpose of **irrigation use**
under Permit **5388** of the Department of Public Works and that said right to the use of said waters has
been perfected in accordance with the laws of California, the rules and regulations of the Department of Public Works
and the terms of the said permit; that the priority of the right herein confirmed dates from **June 15, 1939;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed **thirty six hundredths**
(0.36) cubic feet per second from about May 1 to about October 31 of each season.

In case of rotation the equivalent of such continuous flow allowance for any
thirty day period may be diverted in a shorter time if there be no interference with
other vested rights.

This license is based on the use of water made during the year 1943 which was
the year of maximum use within the three year period immediately preceding the
date of inspection.

The point of diversion of such water is located **North, twelve hundred seventy-five (1275)
feet and West, nine hundred fifty (950) feet from the Southeast corner of Section 11
T 14 N, R 15 W. M.D.B. & M., being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 11.**

A description of the lands or the place where such water is put to beneficial use is as follows:

20 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T 14 N, R 15 W, M.D.B. & M.
5 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T 14 N, R 15 W, M.D.B. & M.
25 acres Total.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance
with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or
unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from
time to time by the State Engineer.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion
herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 15th
day of March, 1946

EDWARD HYATT, State Engineer



By Edward Hyatt
STATE ENGINEER

RECEIVED NOTICE OF ASSIGNMENT TO

Cecil G. Gowan

4/11/67 - Records chgd to show M. Cecil Gowan
& James Gowan as owners;
2-7-85 Asg'd to James C. & Josephine N. Gowan

LICENSE 2826

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO Byron G. Gowan

DATED March 15, 1946

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